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U.S. Department of Homeland Security

Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 MASS, 3/F
425 I Street, N.W.
Washington, D.C. 20536

File: [REDACTED] Office: CALIFORNIA SERVICE CENTER

Date: SEP 30 2003

IN RE: Petitioner:
Beneficiary:

[REDACTED]

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

PUBLIC COPY

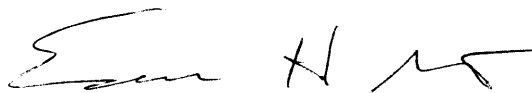
INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a religious organization, seeking classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), in order to employ her as a gospel translator for the Marathi immigrant minority community at a weekly salary of \$350.

The director denied the petition, finding that the petitioner had failed to establish that the beneficiary had been continuously carrying on a religious occupation for at least the two years preceding the filing of the petition.

On appeal, the petitioner submits additional evidence.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

- (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

- (ii) seeks to enter the United States--

- (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

- (II) before October 1, 2003, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

- (III) before October 1, 2003, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from

taxation as an organization described in section 501(c)(3) of the Internal Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The petitioner in this matter is a transdenominational Christian organization that is affiliated with the International Family Church denomination. The beneficiary is a 24-year old native and citizen of India. The petitioner failed to state the size of its congregation or the number of employees. It submitted evidence that it has the appropriate tax exempt recognition.

In order to establish eligibility for classification as a special immigrant religious worker, the petitioner must satisfy each of several eligibility requirements.

At issue in this proceeding is whether the beneficiary had been continuously carrying on a religious occupation for the two years preceding the filing of the petition.

8 C.F.R. § 204.5(m)(1) states, in pertinent part, that:

All three types of religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two year period immediately preceding the filing of the petition.

The petition was filed on July 13, 2001. Therefore, the petitioner must establish that the beneficiary was continuously carrying on a religious occupation since at least July 13, 1999.

The petitioner submitted a letter from the Chief Executive Officer of its parent corporation, the International Family Church (IFC), stating that:

[The beneficiary] has worked for our affiliate in India from 1997 till [sic] she entered USA. This is also to confirm that [the beneficiary] after

entering USA has not worked. While in USA she is supported by her husband, relatives abroad and various church organizations. When [the beneficiary] will be approved by INS the Mission Department of IFC will pay her wages as per the Resolution passed by IFC.

The petitioner submitted a letter from a representative of an affiliate, [REDACTED] stating that the beneficiary had been employed as a gospel translator, working 40 hours per week at a monthly salary of 6,000 rupees plus housing, from January 1, 1997 until December 31, 2000.

The director concluded that in the absence of evidence that the beneficiary had been paid, the evidence was insufficient to satisfy the requirement of having been continuously engaged in a religious occupation for the preceding two years.

The statute and its implementing regulations require that a beneficiary had been continuously carrying on the religious occupation specified in the petition for the two years preceding filing. Because the statute requires two years of continuous experience in the same position for which special immigrant classification is sought, the CIS interprets its own regulations to require that, in cases of lay persons seeking to engage in a religious occupation, the prior experience must have been full-time salaried employment in order to qualify.

Here, the petitioner and beneficiary admit that the beneficiary has not received compensation or worked for the petitioner since her entry into the United States on December 1, 2000.

On appeal, the petitioner submits evidence that the beneficiary was paid in cash in India.

In review, the evidence is insufficient to establish that the beneficiary had been continuously engaged in a religious occupation in the two-year period immediately preceding the filing of the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.



ORDER: The appeal is dismissed.